

1 Honorable Ronald B. Leighton  
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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

10 UNITED STATES OF AMERICA, ) NO. CR11-5233RBL  
11 Plaintiff, ) ORDER CONTINUING TRIAL  
12 v. ) DATE  
13 ROY ALLOWAY, )  
14 Defendant. )  
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16 ORDER  
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18 The Court having reviewed the records and files herein and the United States  
19 request to continue the trial, this Court finds:

20 1. The defense has recently received discovery which includes records and  
21 undercover recordings. The defense needs time to adequately review the discovery and  
22 conduct their own investigation to assist in the preparation of their defense and pretrial  
23 motions. The defendant has indicated that he agrees to the continuance by signing and  
24 filing a "Speedy Trial Waiver" [dkt #15] purporting to waive his speedy trial rights  
25 through October 31, 2011. A Defendant may not waive his speedy trial rights. United  
26 States v. Berberian 851 F. 2d 236, 239 (9<sup>th</sup> Cir 1988). A defendant may, however,  
27 stipulate to a continuance so that his counsel has adequate time for trial preparation.  
28 United States v. Palomba, 31 F. 3<sup>rd</sup> 1456, 1462 (9<sup>th</sup> Cir 1994). Counsel has indicated to

1 the Court that a new waiver containing a stipulation to continue based on the need for trial  
2 preparation will be forthcoming.

3       2. The parties have yet to conduct a discovery conference which is needed to  
4 complete the discovery process.

5       3. Given the parties respective schedules, the United States needs additional  
6 time to be adequately prepared and to respond to any pretrial motions to be filed by the  
7 defendant.

8       4. Proceeding to trial absent adequate time for the parties to prepare would  
9 result in a miscarriage of justice and would deny counsel for the defense or government  
10 the reasonable time necessary for adequate preparation and continuity of counsel. 18  
11 U.S.C. §§ 3161(h)(7)(B)(i) and (iv).

12       IT IS HEREBY ORDERED that the trial date is now set for October 24, 2011 @  
13 9:00 am..

14       The resulting period of delay from the filing of this motion up to and including  
15 October 24, 2011, is hereby excluded for speedy trial purposes under 18 U.S.C. §  
16 3161(h)(7)(A).

17       The motion filing deadline is established as August 23, 2011.  
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19       IT IS SO ORDERED this 28th day of June, 2011.

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RONALD B. LEIGHTON  
UNITED STATES DISTRICT JUDGE  
*signed upon authorized (JAB)*

22 Presented by:  
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24 s/Bruce F. Miyake  
25 BRUCE F. MIYAKE  
Assistant United States Attorney  
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